

AMENDED IN ASSEMBLY MAY 10, 2000
AMENDED IN ASSEMBLY APRIL 24, 2000
AMENDED IN ASSEMBLY APRIL 4, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2806

Introduced by Assembly Member Papan

February 28, 2000

An act to add Section 11012.5 to the Government Code, relating to state investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2806, as amended, Papan. Public investments: financial institutions.

Existing law generally provides that whenever any state agency is authorized to invest funds, or to sell or exchange securities, approval of the Department of Finance shall be secured prior to the investment, sale, or exchange.

This bill would establish standards and reporting requirements that a financial institution would be required to satisfy as a condition precedent for receiving ~~public money investments or deposits or participating~~ *preference to participate* in public agency contracts for financial services or similar financial activities *and for receiving a specified rating of its record of meeting the credit needs of California communities, as defined.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in
2 enacting this act to ensure that financial institutions doing
3 business in this state demonstrate an ongoing policy of
4 investment in the communities from which they derive
5 their funds. To stimulate that community investment, it
6 is the intent of the Legislature ~~that no financial institution~~
7 ~~shall be eligible to encourage California financial~~
8 ~~institutions to invest in communities from which they~~
9 ~~derive their income and to further the promotion of~~
10 ~~minorities and women to management positions and~~
11 ~~their appointment to boards of directors by creating~~
12 ~~incentives to receive public money investments or~~
13 ~~deposits or participate in public agency contracts for~~
14 ~~financial services or similar state financial activities unless~~
15 ~~the institution achieves and maintains at least a “high~~
16 ~~satisfactory” record of meeting community credit needs~~
17 ~~for lending, service, and investments under the federal~~
18 ~~Community Reinvestment Act of 1977 (12 U.S.C. Sec.~~
19 ~~2901 and following) and the implementing regulations~~
20 ~~(12 C.F.R. 25.11 and following and 12 C.F.R. 345.11 and~~
21 ~~following) or an equivalent State of California standard.~~

22 SEC. 2. Section 11012.5 is added to the Government
23 Code, to read:

24 11012.5. (a) As used in this section:

25 (1) “CRA ratings” mean the ratings as described in
26 Appendix A to Part 25 of Title 25 of the Code of Federal
27 Regulations.

28 (2) “Financial institution” means any institution
29 engaged in the business of providing financial services to
30 customers who maintain a credit, deposit, trust, or other
31 financial account or relationship with the institution.
32 *These institutions are classified according to asset size as*
33 *follows:*

34 (A) *Less than two hundred fifty million dollars*
35 *(\$250,000,000).*

36 (B) *From two hundred fifty million dollars*
37 *(\$250,000,000) to, but not including, one billion dollars*
38 *(\$1,000,000,000).*

1 (C) *One billion dollars (\$1,000,000,000) or more.*

2 ~~(2)–~~

3 (3) “Public agency” means every state agency,
4 county, city and county, city, public corporation,
5 municipal corporation, or public district.

6 ~~(3)–~~

7 (4) “Regulated financial institution” means an insured
8 depository institution, as defined in paragraph (2) of
9 subdivision (c) of Section 1813 of Title 12 of the United
10 States Code, that is subject to the *federal* Community
11 Reinvestment Act (12 U.S.C. Sec 2901 and following).

12 ~~(4)–~~

13 (5) “*Small bank*” means a financial institution that, as
14 of December 31 of either of the two prior calendar years,
15 had total assets of less than two hundred fifty million
16 dollars (\$250,000,000) and was independent or an affiliate
17 of a holding company that, as of December 31 of either of
18 the two prior calendar years, had total banking and thrift
19 assets of less than one billion dollars (\$1,000,000,000).

20 (6) “State agency” has the meaning set forth in Section
21 11000.

22 ~~(b)–~~

23 (b) No financial institution shall be eligible to receive
24 ~~public money investments or deposits or participate in~~
25 ~~preference to participate in~~ public agency contracts for
26 financial services or similar state financial activities
27 unless, to the extent applicable to the financial institution,
28 the financial institution has disclosed in an annual report
29 to the Treasurer, in the manner and form prescribed by
30 the Treasurer, all of the following:

31 (1) The diversity of its board of directors and its
32 principal management staff by race, ethnicity, and
33 gender.

34 (2) Its eleemosynary activities.

35 (3) Its contracts with minority businesses by race,
36 ethnicity, and gender.

37 (c) To be eligible to receive *preference in the receipt*
38 *of state or local agency moneys, investments, or deposits*
39 as described in subdivision (b), a regulated financial
40 institution shall have received the following rating in its

1 most recent evaluation by the appropriate federal
2 financial supervisory agency of its record of meeting the
3 credit needs of California's communities, including low-
4 and moderate-income neighborhoods:

5 (1) Institutions having more than one billion dollars
6 (\$1,000,000,000) in assets shall have received an overall
7 rating of "satisfactory" and a rating of "high satisfactory"
8 for the "lending test" (12 C.F.R. 25.22), and at least
9 "satisfactory" for both the "investment test" (12 C.F.R.
10 25.23) and the "service test" (12 C.F.R. 25.24), as the
11 terms "high satisfactory" and "satisfactory" are described
12 in Appendix A to Part 25 (commencing with Section
13 25.11) of Title 12 of the Code of Federal Regulations.

14 (2) Institutions having more than two hundred fifty
15 million dollars (\$250,000,000) but less than one billion
16 dollars (1,000,000,000) in assets shall have received an
17 overall rating of "satisfactory" and a rating of not less than
18 ~~"satisfactory" for the "lending," "investment," and "high~~
19 ~~satisfactory" for the "lending" test and at least~~
20 ~~"satisfactory" for both the "investment" and "service"~~
21 tests.

22 (3) Institutions having less than two hundred fifty
23 million dollars (\$250,000,000) in assets shall have received
24 ~~an overall rating of "satisfactory" and a rating of not less~~
25 ~~than "satisfactory" for the "lending," "investment," and~~
26 ~~"service" tests.~~

27 ~~(d) On or before July 1, 2001, or within six months of~~
28 ~~its authorization to do business in California, whichever~~
29 ~~is later, each regulated financial institution, to be eligible~~
30 ~~to receive state or local agency moneys, shall submit an~~
31 ~~effective good faith plan to achieve an overall rating of~~
32 ~~"high satisfactory" within the following periods:~~

33 ~~(1) For institutions having more than one billion~~
34 ~~dollars (\$1,000,000,000) in assets, three years.~~

35 ~~(2) For institutions having less than one billion dollars~~
36 ~~(\$1,000,000,000) in assets, four years.~~

37 ~~(3) Notwithstanding paragraph (1) or (2) and~~
38 ~~subdivision (c), institutions having less than one billion~~
39 ~~dollars (\$1,000,000,000) in assets need only have an overall~~

1 ~~rating of “satisfactory” and a rating of “high satisfactory”~~
2 ~~for the “lending test” within three years.~~

3 ~~(e) Within four years of submission of the plan~~
4 ~~described subdivision (d), each regulated financial~~
5 ~~institution, to be eligible to receive state or local agency~~
6 ~~moneys, shall have an overall rating of “high satisfactory.”~~

7 ~~(f) an overall rating of “satisfactory.”~~

8 (d) Each state agency charged with the regulation of
9 a regulated financial institution shall enact regulations
10 having a duration of two years to accommodate changes
11 in federal law to be applied to regulated financial
12 institutions in California.

13 (e) *If more than one financial institution responds to*
14 *a request for proposal from a public agency and the*
15 *proposals are substantially equivalent in their terms,*
16 *then, within a class, preference shall be given to the*
17 *financial institution that has voluntarily submitted the*
18 *information specified in subdivision (b). If the*
19 *responding financial institutions are from different*
20 *classes, preference may be given to the financial*
21 *institution that has voluntarily submitted the information*
22 *specified in subdivision (b).*

23 (f) *If more than one regulated financial institution*
24 *seeks to be a depository for public funds from a public*
25 *agency and the proposals are substantially equivalent in*
26 *their terms, then, within a class, preference shall be given*
27 *to the regulated financial institution that has achieved the*
28 *CRA ratings in subdivision (c). If the responding*
29 *regulated financial institutions are from different classes,*
30 *preference may be given to the financial institution that*
31 *has achieved the CRA ratings in subdivision (c).*